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NOMINATION—NTSB

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

NOMINATIONS

JUNE 28, 1990

CHRISTOPHER A. HART, TO BE A MEMBER, NATIONAL TRANSPORTATION
SAFETY BOARD

Printed for the use of the
Committee on Commerce, Science, and Transportation

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(III)

NOMINATION—NTSB

THURSDAY, JUNE 28, 1990

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 1:58 p.m., in room SR-253, Russell Senate Office Building, Hon. Wendell H. Ford presiding.

Staff members assigned to this hearing: Sam Whitehorn, staff counsel; Becky Kojm, professional staff member; and Ruth Johnson, minority professional staff member.

OPENING STATEMENT BY SENATOR FORD

Senator FORD. Good afternoon, ladies and gentlemen. I am pleased to call to order this hearing to consider the nomination of Chris Hart to serve on the National Transportation Safety Board.

After a long and difficult period, it is especially gratifying to see that the NTSB has a full complement of members. The mission of the NTSB is far too important to let decisions on members languish. Chris Hart has an excellent background. I am sure that he will bring a special expertise to the Board.

The combination of an aerospace engineering degree and a law degree will aid him as he carries out his duties as a member of the Board. His former service in government will also enhance his ability to get to work immediately. I am very impressed with Chris Hart's background and I look forward to seeing that he is confirmed as soon as possible.

The President has made a wise choice and I believe that choosing NTSB members on the basis of qualification is an excellent trend that I hope will continue.

We are very pleased to have Senator Wirth here today to introduce Chris and I look forward to his statement. Senator.

STATEMENT OF HON. TIMOTHY E. WIRTH, U.S. SENATOR FROM COLORADO

Senator WIRTH. Mr. Chairman, thank you very much. I am especially proud and pleased to introduce to the Committee, Christopher Hart.

Chris, as you point out, is just remarkably qualified for this particular role and any others that the President might choose. I want to take a moment to commend the Administration and President Bush for this nomination. We spend too much time around here

battling about ill-qualified candidates for various appointments, and this is one over which I think there will be no battling at all.

As you pointed out, Mr. Chairman, Chris is very, very well qualified, has a degree in aeronautical engineering, and is also a pilot, a graduate of Princeton and the Harvard Law School and a native of Denver, Colorado, where his family still lives.

Although Chris Hart has spent many years here in the Nation's Capital, he was born and raised in Denver. His parents still live there. His father was an official with HUD and his mother a teacher in the Denver public schools. Although Chris has made his career in public policy in Washington, we still claim him as a Coloradan, and we are proud of his achievements.

It is an honor for me to present to the Committee, Mr. Christopher Hart.

We are very lucky to have him willing to take this on and, Chris, we wish you well. The Chairman has been very helpful to us in Denver in helping to sort through many of the problems that existed with the new Denver airport, and I know there will not be any safety problems out there, but we will all be able to travel more easily when the new airport is in.

Mr. Chairman, I thank you very much for the opportunity to introduce Chris Hart to the Committee.

So, with that statement, you may proceed.

Mr. Chairman, I am going to excuse myself, if I might, to go over and help Senator Johnston get the final piece of the Tongass National Forest hearing process done.

Senator FORD. Do you want my chain saw to take with you?

Senator WIRTH. I will take it and break it on the way over there. Thank you, Mr. Chairman.

Senator FORD. Thank you, Senator. Chris, Senator Wirth and I understood a long time ago if you lose your good humor in this place you might as well leave, so we have enjoyed each other's friendship in the colloquies we have with each other.

We thank you for your fine introduction.

[The biographical sketch follows:]

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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
 AND TRANSPORTATION

WASHINGTON, DC 20510-6125

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name:	<u>HART</u>	<u>Christopher</u>	<u>Alvin</u>
	(Last)	(First)	(Other)
Address:	<u>1612 Crittenden St., N.W.</u>	<u>600 New Hampshire Ave., N.W.</u>	
	(Current residence)	(Business)	
	<u>Washington, D.C. 20011</u>	<u>Suite 309</u>	<u>Washington, D.C. 20037</u>
2. Position to which nominated:	<u>Member, National Transportation Safety Bd</u>	Date of nomination:	<u>June 5, 1990</u>
3. Date of birth:	<u>June 18, 1947</u>	Place of birth:	<u>Denver, Colorado</u>
	(month) (day) (year)		
4. Marital status:	<u>Married</u>	Full name of Spouse:	<u>Celeste Eileen Brickler Hart</u>
5. Names and ages of children:	<u>Adam C., 3 (in August)</u>		

6. Education:	Institution	Dates attended	Degrees received	Dates of degrees
	<u>Harvard Law School</u>	<u>1970-73</u>	<u>J.D.</u>	<u>1973</u>
	<u>Princeton University</u>	<u>1969-70</u>	<u>M.S.E.</u>	<u>1971</u>
	<u>Princeton University</u>	<u>1965-69</u>	<u>B.S.E.</u>	<u>1969</u>

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
1981	Now	Hart & Chavers	600 New Hampshire Ave Washington, D.C. 20037	Law practice
1979	1981	Dickstein, Shapiro & Morin	2101 L Street, N.W. Washington, D.C. 20037	Law practice
1977	1979	U.S. Department of Transportation	400 7th Street, S.W. Washington, D.C. 20590	Govt atty
1976	1977	Air Transport Assn of America	1709 New York Ave. N.W. Washington, D.C. 20006	Trade assn atty
1973	1976	Peabody, Rivlin & Lambert	1150 Connecticut Ave Washington, D.C. 20036	Law practice
Summ	1972	Fish & Neave	875 Third Avenue New York, N.Y. 10022	Summ clerk
Summ	1971	Davis, Graham & Stubbs	370 17th Street Denver, Colo. 80201	Summ clerk

8. Government experience: List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

Federal. I was a Deputy Assistant General Counsel for the U.S. Department of Transportation (1977-79), an Engineering Aide for the U.S. Geological Survey (summers, 1965, 67), and an Engineering Aide for the U.S. Bureau of Public Roads (summer 1966).

Local. My law firm represents the District of Columbia Public Employee Relations Board (1984-), and it has represented the District of Columbia Housing Finance Agency, the District of Columbia Lottery and Charitable Games Board, and the District of Columbia Office of People's Counsel.

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

None.

10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable, and other organizations.

See attached Supplement.

11. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

See attached Supplement.

12. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials you have written.

Hart, Christopher A., "Obtaining Investment Capital Through Securities Offerings," *Spectrum* (Journal of the National Association of Black Accountants), Fall, 1984.

Hart, Christopher A., "State Action Antitrust Immunity for Airport Operators," *Transportation Law Journal*, Vol. 12, No. 1 (1981).

Hart, Christopher A., "An Antitrust Analysis of Oil Company Ownership of Deepwater Ports," *Transportation Law Journal*, Vol. 10, No. 1 (1978).

Hart, Christopher A., "Analog Simulation of Decelerating Final Approach for a Single Rotor Helicopter," *Princeton University Report* No. 942 (1971).

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES
 Supplement to Part A., "Biographical Data"
 Christopher A. Hart
 June 12, 1990

Question 10: Memberships. (a) Officer or Director. District of Columbia Bar (Member, 1973- ; Director, 1989-); D.C. Lawyer's (Malpractice) Mutual Insurance Company (1989-); WPFM-FM radio station (1983-); National Black Programming Consortium, Columbus, Ohio (1981-); Princeton Club of Washington (Member, ?- ; Director, 1980-1986); Association of Black Princeton Alumni (Member, 1969- ; Director, ?-1986); Howard University Cancer Center (1980-1984); New World Players Chamber Orchestra (1981-1985); Beekman Place Condominium Association (1979-1984).

(b) Other. Washington Bar Association (1973-); National Bar Association (1975-); Federal Bar Association (1978-); Federal Communications Bar Association (1982-); Lawyer-Pilots Bar Association (?-); American Bar Association (?-?); Aero Club of Washington (1977-); International Aviation Club (1977-); Capital Press Club (?-?); Washington Association of Black Journalists (?-?); Aircraft Owners and Pilots Association (?-); Negro Airmen International (?-); Tuskegee Airmen (?-); Harvard Club of Washington (?-); Harvard Black Law Students Association (?-); Squadron Aviation (flying club, Dulles Airport, ?-); Armel Aviation (flying club, Dulles Airport, ?-); Smithsonian Associates (?-); Phi Beta Kappa (1969-); Sigma Xi (1969-); Tau Beta Pi (1969-?); American Institute of Aeronautics and Astronautics (1965-1970).

Question 11: Honors and Awards. Appointed to District of Columbia Bar Board of Responsibility Hearing Committee, 1989; Appointed to Legal Ethics Committee of District of Columbia Bar, 1983-1989; Selected in 1987 to be on the New York Stock Exchange list of arbitrators for Washington, D.C., for complaints that are filed against local stockbrokers who are NYSE members; Association of Black Princeton Alumni Distinguished Alumni Award, 1986; Who's Who in Aviation, 1982; Appointed to American Bar Association Aeronautical Law Advisory Committee, 1980; Who's Who in the East, 1979; Who's Who in American Law, 1979; Department of Transportation Certificate of Special Achievement for Superior Performance, 1978; Outstanding Young Men of America, 1977-1978; Appointed to Princeton University Engineering Advisory and Resource Council, 1975; Fairchild Foundation grant at Harvard Law School; Howard Hughes Fellowship for research in helicopters at Princeton University; M.S.E. thesis selected for printing as official Princeton University Report No. 942 for distribution to the public; Received 2nd prize for graduate research thesis in American Institute of Aeronautics and Astronautics Northeastern Regional Conference, April, 1971; Graduated magna cum laude, Princeton University, June, 1969; Dean's List, Princeton University, 1965-1969; Elected to Phi Beta Kappa, 1969, for general academic excellence; Elected to Sigma Xi, 1969, for excellence in undergraduate research thesis; Elected to Tau Beta Pi, 1969, for engineering academic excellence.

STATEMENT OF CHRISTOPHER A. HART

Mr. HART. Thank you, Mr. Chairman and Members of the Committee, and thank you, Mr. Chairman, for your very kind remarks. I would also like to thank Senator Wirth for his very kind remarks as well.

I am honored to have been nominated by the President to be a member of the National Transportation Safety Board, and I am very pleased to have the opportunity to appear before you today for your consideration of my nomination. Thank you very much for moving so rapidly to schedule this hearing.

If confirmed, I look forward with considerable excitement to working as a member of the Board to help it accomplish its numerous and praiseworthy goals, and I also look forward to working with the members of this Committee in these endeavors.

The mission of the Board is vitally important to national and international commerce and, if confirmed, I pledge to do whatever I can as a member of the Board to help with the never-ending efforts to improve the safety of our transportation systems.

I believe that I will bring a depth of background and a variety of experience to the Board that will be very useful. I have held positions as an attorney and otherwise that relate to all modes of transportation over which the Board has jurisdiction and that relate to numerous specific aspects of the aviation industry.

As you mentioned, Mr. Chairman, my legal background would obviously be useful to the Board's function as an administrative agency in general and as an appellate body in particular. My master's degree in engineering would clearly come in handy in many respects in relation to the technical aspects of safety regulation, and my hands-on experience as a commercial multi-engine, instrument-rated pilot with nearly 1,400 hours would enhance my ability to bring a broad and practical perspective to the issues that the Board faces every day.

By way of a footnote that may be of historical interest, my grandmother's brother, the late Mr. James Herman Banning, who is featured in the "Black Wings" exhibit at the Smithsonian Air and Space Museum, was the first African-American to receive a United States pilot's license, in 1926. Prior to that, black pilots in the United States had to obtain their pilot's licenses from other countries.

I am sure that Mr. Banning would be very pleased to see that, in part as a result of the many contributions that he made in forging new frontiers, his grand-nephew now has the honor of appearing before this Committee as a nominee for the National Transportation Safety Board.

Before concluding, I would like to thank the minority and majority staffs of the Committee for their tremendous assistance in the confirmation process, and I again would like to thank the Committee for its consideration.

I would be pleased at this time to answer any questions that the Committee might have. Thank you.

Senator FORD. Thank you very much, Chris. I have just two or three questions, then we might visit some.

It has been estimated, I think, that probably over 65 percent of aviation accidents are caused by human factors. Do you have any proposals to strengthen the Board's recommendations on human factor research, and should there be better training of pilots?

Mr. HART. I cannot say that I am knowledgeable enough at this point in time regarding what the Board has already done in this regard to give any specifics, but I would say as a general matter that I am very concerned about the human factors aspects of transportation in general obviously the most difficult to design out of any system.

Let me mention one concern that I do have in that regard, and that is automation. Automation obviously has an up side in that it can be very useful to help eliminate the possibility of human factor accidents. But the down side is that as a general matter, the more automated a system is, the more difficult it is for the human to take over in the event of a failure of the automatic systems.

That is one area that I am very interested in looking into and seeing what the Board has done, and that is one area that I will certainly look into very closely if confirmed.

Senator FORD. Have you had a chance to review the current reorganization of the National Transportation Safety Board and, if you have, do you have any suggestions?

Mr. HART. No, Mr. Chairman, I am not familiar with the current reorganization. I can just say that I am aware from having met with the Board members that Chairman Kolstad has done a tremendous job in helping move the Board in the right direction and improve morale, and I am certainly looking forward to working with him in that regard.

Senator FORD. From a safety standpoint, what are your views and do you agree or disagree with the Board's recommendation on infant seats aboard aircraft?

Mr. HART. I have a three-year-old son myself, and as a pilot, whenever we fly, I always take the child seat and put him in it. I feel very strongly that confinement on a lap or on the floor is certainly not sufficient to protect an infant from injury. Again, without knowing the specifics of the Board's proposal, I certainly believe that each occupant needs to be restrained adequately.

Senator FORD. Well, from your experience and then your personal position you would favor the use of infant seats aboard aircraft?

Mr. HART. Very much so, Mr. Chairman.

Senator FORD. In my tenure there has never been, at least in the last few years, a particularly good relationship between FAA and the Board. Short of moving the Board out of the FAA building, how can the two agencies—Well, hello there, out there. They were listening, were they not?

How could the two agencies better communicate? With your background, you probably are in a unique situation to bridge the gap between the two agencies.

Mr. HART. That is correct, Mr. Chairman. I intend to do all I can to help in that regard. I have many contacts at the Federal Aviation Administration from the time I was at the Department of Transportation, and of course being a pilot myself, speaking the lingo, I think I can contribute a lot to the Board in regard to help-

ing the relationship not only with the FAA but also with the other modal administrations at the Department of Transportation.

Senator FORD. We had a very difficult and traumatic experience in Kentucky with the Carrollton bus crash several years ago. Do you know anything about that or have you studied that question? If you have, do you have anything concerning that investigation you might give the Committee today?

Mr. HART. I am afraid I do not know enough about that to be able to make any specific recommendation, Mr. Chairman. I apologize for my lack of knowledge.

Senator FORD. It is parochial and it is in my State. If at some point you have time to look at that and you have some suggestions to give me about the investigation of it, I would appreciate you doing that.

Mr. HART. I would be most happy to do that, Mr. Chairman.

Senator FORD. Chris, during the last five years the Board has lost resources due to the budget situation. In the past year it is my understanding there have been more than 50 investigations launched by the Board—probably the highest number in the agency's history.

Can you comment on areas where increased funding is maybe absolutely necessary or will be required?

Mr. HART. Unfortunately, again, with my lack of current experience with Board activities I cannot give any specifics, except I am obviously aware that everybody is concerned about their budget and about their ability to perform their function properly, given their budgets.

I am aware that Chairman Kolstad has done a tremendous job with the available resources and I am quite impressed with the Board's ability to accomplish what it does with the resources it has. I will probably join the bandwagon to seek more resources as well.

Senator FORD. Well, I am pleased with Mr. Kolstad's entry into the chairmanship and what has been going on. There is always a bump in the road when you try to make some changes to make it better because so many people, as we say down home, are "set in their ways" and do not want to change. But change is inevitable and hopefully change is for the better.

We are now considering the authorization of NTSB and there may be some safety issues not addressed in the Administration's proposal that you think should be addressed, and if you have any comment on those this afternoon I would be pleased to accept it, or you can feel free to visit with me or communicate with me on some things that you feel might be added or changed or altered. I am sure you would want to speak with the Chairman before you did that.

Mr. HART. Yes. I do not have any specific comments as we speak this afternoon, but I would certainly like to visit with the Chairman to do that.

Senator FORD. Chris, as soon as we have the next Committee meeting, we will do everything to see that you are put forward and confirmed at the earliest possible moment. If you have anything else to say, we have gotten through in about 12 minutes.

Mr. HART. Nothing else other than to thank the Chairman and the Committee and the staffs and also the members of the Board

itself, who have all been very helpful. I certainly look forward to working with the Board and working with the members of the Committee, if confirmed.

Senator FORD. Be sure you get a good staff. You know, Moses had the first staff. The Bible says that Moses leaned on his staff and died. So be sure you get a good staff.

Mr. HART. With no pun intended, Mr. Chairman, I will certainly take that to heart.

Senator FORD. This hearing is adjourned.

[Whereupon, at 2:11 p.m., the Committee adjourned.]

[The following information was subsequently received for the record:]

POST-HEARING QUESTIONS OF THE CHAIRMAN AND THE ANSWERS THERETO

Question No. 1. Why do you believe that you meet the qualifications for a position with the NTSB?

Response. Both the general and the transportation-specific aspects of my 17 years of legal experience -- at the Department of Transportation, at the Air Transport Association, and in private practice -- would be very useful to the Board's function as an administrative agency in general and as an appellate body in particular. My transportation industry experience, both as an attorney (at the Department of Transportation and the Air Transportation) and in summer engineering positions (at Boeing Commercial Airplanes and at Mechanics Research, Inc., an engineering consulting company) would be very useful in understanding operational aspects of and relationships in the transportation industries. My Master's Degree in Aerospace Engineering would be very useful in relation to the technical aspects of safety regulation. My hands-on experience as a commercial, multi-engine, instrument-rated pilot with nearly 1400 hours give me an in-depth understanding of operational aspects of and relationships in our air transportation systems.

Question No. 2. The Independent Safety Board Act of 1974 requires that no less than three members of the NTSB have experience in accident reconstruction, safety engineering, human factors, or transportation safety regulation. Do you believe that your qualifications would satisfy this requirement? If so, how?

Response. I believe that my qualifications would satisfy the statutory requirements because I acquired experience in matters involving and related to safety engineering, human factors, and transportation safety regulation while at the Department of Transportation, the Air Transport Association, and Boeing Commercial Airplanes; and I also worked extensively in human factors in relation to my Master's Thesis in Aerospace Engineering, which was about helicopter automatic pilots.

Question No. 3. What areas of transportation safety do you believe deserve top priority at the NTSB?

Response. I would like to pursue the problems relating to (a) drug and alcohol use by safety-sensitive transportation industry employees, (b) increasing system automation, both as regards the ability of the human operators to "take over" in the event of system failure, and as regards maintenance of the systems, (c) aging aircraft, and (d) increasing aircraft crew inexperience as the demand for pilots grows faster than the supply.

Question No. 4. What initiatives do you believe should be undertaken with respect to the motor carrier and rail industries to better promote safety?

Response. I would like to pursue the problems of drug and alcohol use by safety-sensitive employees, adequacy of maintenance, extent of duty time, and vehicle crashworthiness for the motor carrier and rail carrier industries.

Question No. 5. What are your views concerning random alcohol and drug testing of transportation industry employees in safety-sensitive and security positions?

Response. I support random drug and alcohol testing of transportation industry employees in safety-sensitive and security positions to the extent the law allows, and my legal background would be useful in helping to develop policies that are within the existing legal boundaries or, where appropriate, that would successfully expand those boundaries.

Question No. 6. What role do you see the see the NTSB playing with respect to safety in commercial space activities?

Response. Resources permitting, I support the use of the NTSB's accident investigation and safety recommendation expertise to help improve the safety of commercial space activities.

Question No. 7. In response to the Committee questionnaire, you indicated that your firm has represented two transportation-related companies. Please explain the type of work performed for these clients, and how you intend to deal with potential conflicts of interest.

Response. My law firm now represents Exxon Company, U.S.A., in litigation in the District of Columbia Superior Court involving repairs performed by an Exxon service station in Washington, D.C., that were allegedly defective. I am the counsel of record for Exxon in this matter, and I will move to withdraw as counsel prior to my confirmation. Several years ago my law firm successfully represented Ethiopian Air Lines in litigation in the District of Columbia Superior Court involving a lost cargo claim. I will recuse myself for the appropriate period of time from involvement in any decisions involving, relating to, or affecting these two companies.

Question No. 8. Do you own any stock, bonds, debentures, or options to purchase any of these instruments, or any other ownership interest in any corporation, partnership, or other entity which may directly or indirectly benefit from your confirmation to the NTSB?

Response. No.

Question No. 9. Your response to the Committee questionnaire indicates that your firm (Hart & Chavers) will dissolve on or before your confirmation. Has the firm been dissolved? Are there any related financial arrangements that may cause you to recuse yourself from participating in any matters before the NTSB?

Response. The law firm has not yet been dissolved but it is now in the process of winding down. Other than the matters set forth above in response to Question No. 7, there are no related financial arrangements that may cause me to recuse myself from participating in any matters before the Board.

POST-HEARING QUESTIONS OF SENATOR DANFORTH AND THE ANSWERS THERETO

Question No. 1. In view of the March 8 incident in which three Northwest pilots flew a commercial flight between Fargo, North Dakota, and Minneapolis, Minnesota, allegedly while intoxicated, do you believe DOT should expand its transportation testing program to include alcohol in addition to drugs?

Response. Yes, to the extent the law allows.

Question No. 2. Do you support random drug and alcohol testing for safety-sensitive transportation employees?

Response. Yes, to the extent the law allows.

Question No. 3. Would you support requiring random drug and alcohol testing for safety-sensitive NTSB employees?

Response. Yes, to the extent the law allows; and I note with respect to all three Questions that my legal background would be useful in helping to develop policies that are within the existing legal boundaries or, where appropriate, that would successfully expand those boundaries.